

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

YESENIA GUITRON; and JUDI KLOSEK,

No. C 10-3461 CW

Plaintiffs,

ORDER GRANTING IN
PART MOTION TO
CONTINUE TRIAL
(Docket No. 143)

v.

WELLS FARGO BANK, N.A.; WELLS
FARGO & CO.; PAM RUBIO; and DOES
1-20,

Defendants.

Defendant Wells Fargo Bank, N.A. moves to continue the trial date in this case from February 11, 2013 until July 15, 2013, or in the alternative, until April 1, 2013. Defendant contends that the continuance is necessary because one of its witnesses, its employee Hale Walker, is currently pregnant and is anticipated to be on leave from January 2013. Plaintiffs Yesenia Guitron and Judi Klosek oppose a long continuance, but do not oppose a shorter continuance until March 2012. Plaintiff Klosek has not stated that she is unavailable for trial during early April 2013.

Having considered the papers submitted by the parties, the Court GRANTS the motion in part. The five-day jury trial is CONTINUED to Tuesday, April 2, 2013 at 8:30 a.m. The final pretrial conference is CONTINUED to Wednesday, March 20, 2013 at 2:00 p.m.

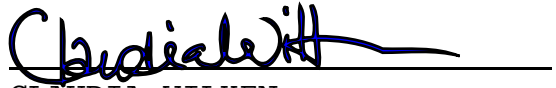
Although the Court continues the trial, the Court notes that Defendant's proffered proof of Ms. Walker's unavailability is deficient. Defendant is primarily concerned that, by issuing a subpoena for Ms. Walker during the time she is on leave, it might

1 be liable for interference with her statutorily-protected family
2 leave. However, the Court, not Defendant, will subpoena her.
3 Further, Defendant has provided no evidence of the duration of
4 leave that Ms. Walker intends to take, that it has discussed this
5 issue with Ms. Walker or that it has tried to establish a leave
6 schedule with her that would accommodate her testimony.

7 Defendant's evidence of its counsel's unavailability is also
8 deficient. Defendant has stated that its "lead trial counsel
9 currently is scheduled to be in trial in other actions in March,
10 April, May and June." Mot. at 4. Defendant, however, has not
11 provided any specific dates during which its counsel is scheduled
12 to be in trial in those months, although Defendant has suggested
13 setting trial in this matter for the week of April 1, 2013.

14 IT IS SO ORDERED.

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16 Dated: 12/7/2012

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18 CLAUDIA WILKEN
19 United States District Judge
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